

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION
11

12 JOSEPH CIAMPI,

13 Plaintiff,

14 v.

15 CITY OF PALO ALTO,

16 Defendants.
17

Case No.: C 09-02655 LHK (PSG)

**ORDER GRANTING MOTION TO
COMPEL**

(Re: Docket No. 115)

18 Before the court is Plaintiff Joseph Ciampi's ("Ciampi") motion to compel. At oral
19 argument and in Ciampi's reply brief, Ciampi clarified that he seeks a copy of Defendant
20 Temores' recording and a copy of Defendant Burger's recording to be produced in the same type
21 of file that was provided to Defendants' expert Warren Scott Page—"file copies utilizing a
22 standard Windows file copy system . . . a bit-for-bit replication of the original file"¹—containing
23 the digital watermark, a March 15, 2008 date of last modification, and the original amount of
24 memory.² Ciampi also requests the copies of Defendant Temores' and Burger's recordings in the
25 possession of Eduardo Guillarte-Medina ("Gillarte-Medina").³

26 ¹ See Warren Scott Page Decl. ¶ 8.0, 2/25/11 Pl.'s Response, Ex. 413 (Docket No. 131).

27 ² See 2/25/11 Pl.'s Response at 4:23-28, 6:14-18 (Docket No. 131); FTR Hearing Audio
28 Transcript, March 15, 2011 11:43:10-11:43:41 a.m.

³ See FTR Hearing Audio Transcript, March 15, 2011, 11:43:10-11:43:41 a.m.

1 Defendants claim that in order to make a DVD that is viewable on most commercially-
2 available players, they have to convert the file into a format that alters the file size and removes
3 the watermark. If they were to copy the original file using a Windows file copy system producing
4 a bit-for-bit replication containing the watermark, Ciampi would not be able to view the video on
5 most commercially-available DVD players. Additionally, Defendants claim that “[a]ny file stored
6 in [their] database will show a different modification date as opposed to the file recorded in the
7 vehicle, by the mere act of storing the file in a database.” Ciampi, however, claims that files with
8 the original modification date do exist as evidenced by the modification date of the files held by
9 Guillarte-Medina.⁴

10 Furthermore, Defendants argue in their opposition brief that they need not produce the
11 copies of the recordings being held by Guillarte-Medina because Ciampi stipulated to open the
12 sealed envelope only after he had retained an expert to analyze the files, and he has not yet
13 retained an expert. Alternatively, Defendants request that the undersigned be present when the
14 envelope is opened. At oral argument, Defendants agreed to release to Ciampi the files held by
15 Gillarte-Medina.⁵

16 Defendants’ justifications for denying Ciampi access to the requested files are
17 unpersuasive. There is no dispute that the requested files are relevant. There is no dispute that
18 the requested files are not privileged. To the extent the requested files are not usable by Ciampi
19 absent the help of an expert, that is Ciampi’s problem. It does not justify denial of discovery to
20 which Ciampi is entitled. The undersigned will not oversee a production that should have taken
21 place without court intervention. Ciampi’s motion therefore is GRANTED. Defendants shall
22 produce the files listed above no later than April 29, 2011.

23 Dated: April 21, 2011

24 
25 PAUL S. GREWAL
26 United States Magistrate Judge
27

28 ⁴ See 1/31/11 Pl.’s Am. Mot. Ex. 244 (Docket No. 115).

1 **Notice of this filing was automatically mailed to counsel via the court's Electronic Case Filing**
2 **system.**

3 **A copy of this filing was mailed to:**

4 Joseph Ciampi
5 P.O. Box 1681
6 Palo Alto, CA
7 94302

8 Dated: April 21, 2011

9 */s/ Chambers Staff*
10 Chambers of U.S. Magistrate Judge Paul S. Grewal
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28